

Exhibit “A”

**LITCHFIELD**  
**CAVO** LLP  
ATTORNEYS AT LAW

Electronically Filed  
3/29/2021 12:00 AM  
Penny Clarkston, Smith County District Clerk  
Reviewed By: Lena Fields  
**WRITER'S ADDRESS:**  
**One Riverway | Suite 1000**  
**Houston, TX 77056**  
**D 713-418-2000**  
**F 713-418-2001**

Valerie Musick  
Email: [musick@LitchfieldCavo.com](mailto:musick@LitchfieldCavo.com)

*Privileged and Confidential*  
*Attorney-Client Communication*

March 24, 2021

Penny Clarkston  
Smith County District Clerk  
100 N. Broadway, Room 204  
Tyler, TX 75702

Re: Cause No. 20-1477-A; *WSLW Investments, LLC v. Maxum Indemnity Company*; in the  
7th Judicial District Court, Smith County, Texas.

Dear Clerk:

We are requesting a **certified copy of the state court file**, including the docket sheet, if any.  
Please send to the above address or email the certified documents to [musick@litchfieldcavo.com](mailto:musick@litchfieldcavo.com).

Thank you for your help.

Respectfully,

*Valerie Musick*

Valerie Musick

/vm



**CIVIL DOCKET – CAUSE NO. 20-1477-A\_\_\_\_\_**

**7th Judicial District Court**

**STYLE: WSLW Investments, LLC Vs. Maxum Indemnity Company**

[illegible]

CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE



OFFICE OF THE CLERK OF THE SUPREME COURT  
STATE OF TEXAS  
1720 COMPTON ST., SUITE 1000  
DALLAS, TEXAS 75201-3902

By: \_\_\_\_\_ Deputy  
Deputy Clerk of District Court - Smith County, Texas

Witness my official hand and seal of office on this date:

Minister of said Court on file in my office

at witness of record in Vol. \_\_\_\_\_ Page \_\_\_\_\_

the within record, now in my lawful custody and possession,  
truly certify that the foregoing is a true and correct copy of  
1. Deputy Clerk of District Court of Smith County, Texas do

STATE OF TEXAS - COUNTY OF SMITH

## WSLW INVESTMENTS, LLC vs. MAXUM INDEMNITY COMPANY

**20-1477-A**

NAME OF PARTIES	ATTORNEYS	KIND OF ACTION	DATE OF FILING
WSLW INVESTMENTS, LLC PLAINTIFF	PRESTON J. DUGAS, III; VINCENT P. CIRCELLI	Contract - Other	07/06/2020
MAXUM INDEMNITY COMPANY RESPONDENT			

File Date	Event	Comments
07/06/2020	Original Petition (OCA)	Plaintiffs Original Petition
07/06/2020	Citation Issued by Certified Mail	to Macum Indemnity Company by Serving its President and CEO, Doug Elliot 7018 1830 0000 8757 8209
07/21/2020	Green Card Returned Served	on 7/14/20
02/25/2021	Notice of Appearance	attorney Vincent Circelli
03/05/2021	Request for Citation	AND CERTIFIED MAIL
03/08/2021	Citation Served by Certified Mail	to Commissioner of Insurance Texas Department of Insurance
03/16/2021	Request for Citation	BY CERTIFIED MAIL
03/16/2021	Citation Issued by Certified Mail	BY SERVING THE COMMISSIONER OF INSURANCE TEXAS DEPARTMENT OF INSURANCE
03/24/2021	Letter	Tx Dept Insurance's refusal letter to Preston Dugas Law Firm returning documents regarding Maxum Indemnity Company
03/29/2021	Request	for a certified copy of the file

**STATE OF TEXAS - COUNTY OF SMITH**

I, Penny Clarkston, District Clerk of Smith County, Texas, do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. \_\_\_\_\_, Page \_\_\_\_\_ Minutes of said Court on file in my office.

Witness my official hand and seal of office on this date:

*March 29, 2021*  
 Penny Clarkston, District Clerk - Smith County, Texas  
 By: *[Signature]* Deput

Page 1 of 1



CERTIFIED TO BE A TRUE  
 AND CORRECT COPY  
 FILED IN THE SMITH COUNTY  
 DISTRICT CLERK'S OFFICE

STATE OF TEXAS - COUNTY OF SMITH

I, Penny Claitor, District Clerk of Smith County, Texas, do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, as appears of record in Vol. \_\_\_\_\_, Page \_\_\_\_\_ Minutes of said Court on file in my office.

Witness my official hand and seal of office on this date:

Penny Claitor, District Clerk - Smith County, Texas

By \_\_\_\_\_

RECEIVED  
APR 12 2021  
CLERK OF SMITH COUNTY  
SMITH COUNTY, TEXAS







PO Box 12030 | Austin, TX 78711 | 800-578-4677 | tdi.texas.gov

March 22, 2021

Preston J. Dugas III  
Preston Dugas Law Firm, PLLC  
1701 River Run, Suite 703  
Fort Worth, Texas 76107

Re: Cause No. 20-1477-A; styled *WSLW Investments, LLC vs. Maxum Indemnity Company*;  
in the 7<sup>th</sup> Judicial District, Smith County, Texas

Dear Sir/Madam:

On March 11, 2021, the enclosed documents were received in the office of the Commissioner of Insurance for service of process. The documents received are being returned to your office for the reasons indicated below.

**Maxum Indemnity Company's** address must be indicated the citation. Please refer to the Texas Administrative Code, Title 28, Chapter 7, Rule §7.1414.

Pursuant to §804.201(C) of the Texas Insurance Code, there is a fee of \$50.00, each time a request for service (including notice/demand/subpoena) is made on the Commissioner of Insurance Refer to Chapter 804 of the Texas Insurance Code for service of process information.

Please let me know if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Tish Wilhelm". The signature is written in a cursive, flowing style.

Tish Wilhelm  
Program Specialist  
(512) 676-6543

Enclosures

c: Smith County District Clerk  
**E-filed**



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE



CW | CIRCELLI & WALTER, PLLC

Electronically Filed  
3/16/2021 3:25 PM  
Penny Clarkston, Smith County District Clerk  
Reviewed By: Lana Fields

500 E. 4<sup>th</sup> STREET, SUITE 250  
FORT WORTH, TEXAS 76102

March 16, 2021

District Clerk  
7th District Court  
Smith County District Clerk  
100 North Broadway, Room 204  
Tyler, Texas 75702

*via E-Filing*

Re: Cause No. 20-1477-A; *WSLW Investments, LLC v. Maxum Indemnity Company*;  
Pending the 7th District Court, Smith County, Texas

Dear Clerk:

Please issue citation for service of Plaintiffs' Original Petition on **Defendant, MAXUM INDEMNITY COMPANY** by serving its agent for service of process, **The Commissioner of Insurance, Texas Department of Insurance, TDI Service Center, 333 Guadalupe, Room 103, Austin, Texas 78701** who will in turn serve Defendant, **Doug Elliot, President and CEO, Maxum Indemnity Company at 3655 North Point Parkway, Suite 500, Alpharetta, GA 30005.**

Please be sure to include in the Citation both the Commissioner of Insurance and the Defendant's addresses styled as follows:

TO: Defendant, MAXUM INDEMNITY COMPANY MAY BE SERVED SERVING THE COMMISSIONER OF INSURANCE TEXAS DEPARTMENT OF INSURANCE 333 Guadalupe, Room 103, Austin, Texas 78701 who will then serve:

Doug Elliot  
President and CEO  
Maxum Indemnity Company  
3655 North Point Parkway  
Suite 500  
Alpharetta, GA 30005

Please also be sure to include the following language in the Citation pursuant Supreme Court Order to TRCP (Amendment) – Rule 99 effective January 1, 2021:

*"In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk."*

By this filing, we are paying the \$8.00 fee associated with the preparation of the Citation. In addition, we are paying the \$80.00 fee associated with the service by certified mail.



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE

Letter to Clerk  
March 16, 2012  
Page 2

Thank you for your assistance in this regard. Please contact me if you have any questions or concerns.

Sincerely,

*/s/ Vincent P. Circelli*

Vincent P. Circelli  
[vcircelli@circelliwalterlaw.com](mailto:vcircelli@circelliwalterlaw.com)



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE

CLERK OF THE COURT	ATTORNEY FOR PETITIONER
PENNY CLARKSTON SMITH COUNTY DISTRICT CLERK 100 N. BROADWAY, RM 204 TYLER, TEXAS 75702 903-590-1660	VINCENT P. CIRCELLI 500 E Street STE 250 Forth Worth TX 76102 817-697-4942

CAUSE NO. 20-1477-A

**THE STATE OF TEXAS**  
**CITATION BY CERTIFIED MAIL**

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you." In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of the suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk.

**TO: MAXUM INDEMNITY COMPANY**  
**MAY BE SERVED SERVING THE COMMISSIONER OF INSURANCE TEXAS**  
**DEPARTMENT OF INSURANCE**  
**333 GUADALUPE, ROOM 103, AUSTIN TEXAS 78701,**

**WHO WILL THEN SERVE:**  
**DOUG ELLIOT, PRESIDENT AND CEO MAXUM INDEMNITY COMPANY**  
**3655 NORTH POINT PARKWAY, SUITE 500**  
**ALPHARETTA, GA 30005**

**GREETINGS:** You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten (10:00) o'clock A.M. on the Monday next after the expiration of the twenty (20) days after the date of service of this citation before the 7th Judicial District Court of Smith County, Texas, at the Courthouse of said County located at 100 N. Broadway, Tyler, Texas

Said Plaintiff's Original Petition was filed in said Court on JULY 6, 2020, in this case, numbered 20-1477-A on the docket of said Court, and styled:

**WSLW INVESTMENTS, LLC VS. MAXUM INDEMNITY COMPANY**

The nature of Plaintiff's demand is fully shown by a true and correct copy of Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to the requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of the Court at Tyler, Texas, on this date: March 16, 2021.



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE



**CLERK OF THE COURT**

**PENNY CLARKSTON, DISTRICT CLERK**

**SMITH COUNTY, TEXAS**

100 North Broadway, Rm. 204

Tyler, Texas 75702



By: /s/ Lana Fields

Lana Fields, Deputy

\*\*\*\*\***CERTIFICATE OF DELIVERY BY MAIL**\*\*\*\*\*

I hereby certify that on this date: 3/16/2021, at 4 o'clock P.M., I mailed to MAXUM INDEMNITY COMPANY MAY BE SERVED SERVING THE COMMISSIONER OF INSURANCE TEXAS DEPARTMENT OF INSURANCE by registered or certified mail, with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the Petition attached thereto.

BY: /s/ Lana Fields

Lana Fields, Deputy

CERTIFIED MAIL, RETURN RECEIPT REQUESTED: 7019 1120 0000 0801 5607

>>>>>>>>**ATTACH RETURN RECEIPT WITH ADDRESSEE'S SIGNATURE**<<<<<<<<<



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE

# U.S. Postal Service™ CERTIFIED MAIL® RECEIPT

*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)®.

## OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required

☐ Adult Signature Required

Postage

\$

Total Fee

\$

Sent 7

Street

City, State

MAXUM INDEMNITY COMPANY  
MAY BE SERVED SERVING THE  
COMMISSIONER OF INSURANCE  
TEXAS DEPARTMENT OF INS.  
333 GUADALUPE, ROOM 103  
AUSTIN, TX 78701

WHO WILL THEN SERVE:  
DOUG ELLIOT, PRES. & CEO  
MAXUM INDEMNITY COMPANY  
3655 NORTH POINT PARKWAY, SUITE 500  
ALPHARETTA, GA 30005

20-1477-A  
Postmark Here



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE



## **Certified Mail service provides the following benefits:**

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

### **Important Reminders:**

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
  - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;

for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
- Adult signature-restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

**IMPORTANT: Save this receipt for your records.**



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE



CLERK OF THE COURT	ATTORNEY FOR PETITIONER
PENNY CLARKSTON SMITH COUNTY DISTRICT CLERK 100 N. BROADWAY, RM 204 TYLER, TEXAS 75702 903-590-1660	VINCENT P. CIRCELLI 500 E Street STE 250 Forth Worth TX 76102 817-697-4942

CAUSE NO. 20-1477-A

**THE STATE OF TEXAS**  
**CITATION BY CERTIFIED MAIL**

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

**TO: COMMISSIONER OF INSURANCE TEXAS DEPARTMENT OF INSURANCE**  
**CHIEF CLERK OFFICE**  
**P.O. BOX 149104 MC 112-2A**  
**AUSTIN, TEXAS 78714-9104**

**GREETINGS:** You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten (10:00) o'clock A.M. on the Monday next after the expiration of the twenty (20) days after the date of service of this citation before the 7th Judicial District Court of Smith County, Texas, at the Courthouse of said County located at 100 N. Broadway, Tyler, Texas.

Said Plaintiff's Original Petition was filed in said Court on **JULY 6, 2020**, in this case, numbered **20-1477-A** on the docket of said Court, and styled:

**WSLW INVESTMENTS, LLC VS. MAXUM INDEMNITY COMPANY**

The nature of Plaintiff's demand is fully shown by a true and correct copy of Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to the requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of the Court at Tyler, Texas, on this date: March 08, 2021.

**CLERK OF THE COURT**  
**PENNY CLARKSTON, DISTRICT CLERK**  
**SMITH COUNTY, TEXAS**  
100 North Broadway, Rm. 204  
Tyler, Texas 75702

By: /s/ Lana Fields  
Lana Fields, Deputy



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE



\*\*\*\*\***CERTIFICATE OF DELIVERY BY MAIL**\*\*\*\*\*

I hereby certify that on this date: **MARCH 8, 2021**, at 4 o'clock P.M., I mailed to **MAXUM INDEMNITY COMPANY** by registered or certified mail, with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the Petition attached thereto.

BY: /s/ Lana Fields  
Lana Fields, Deputy

CERTIFIED MAIL, RETURN RECEIPT REQUESTED: 7019 1120 0000 0801 3559

>>>>>>> **ATTACH RETURN RECEIPT WITH ADDRESSEE'S SIGNATURE** <<<<<<<



# U.S. Postal Service<sup>TM</sup>

## CERTIFIED MAIL<sup>®</sup> RECEIPT

*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)<sup>®</sup>.

# OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- |   |    |  |
|---|----|--|
| <input type="checkbox"/> Return Receipt (hardcopy)          | \$ |  |
| <input type="checkbox"/> Return Receipt (electronic)        | \$ |  |
| <input type="checkbox"/> Certified Mail Restricted Delivery | \$ |  |
| <input type="checkbox"/> Adult Signature Required           | \$ |  |

Postage

\$

Total

\$

Service

Street

City

**COMMISSIONER OF INSURANCE**  
**TEXAS DEPARTMENT OF INSURANCE**  
**CHIEF CLERK OFFICE**  
**P.O. BOX 149104 MC 112-2A**  
**AUSTIN, TEXAS 78714-9104**

Postmark  
Here



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 AND CORRECT COPY  
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 DISTRICT CLERK'S OFFICE



**Certified Mail service provides the following benefits:**

- A receipt (this portion of the Certified Mail label).
- A unique Identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

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Certified Mail service is *not* available for international mail.

Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.

For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:

- Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;

for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
- Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

**IMPORTANT: Save this receipt for your records.**



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 AND CORRECT COPY  
 FILED IN THE SMITH COUNTY  
 DISTRICT CLERK'S OFFICE

CW | CIRCELLI & WALTER, PLLC

Electronically Filed  
3/5/2021 10:00 AM  
Penny Clarkston, Smith County District Clerk  
Reviewed By: Lana Fields

500 E. 4<sup>th</sup> STREET, SUITE 250  
FORT WORTH, TEXAS 76102

March 5, 2021

District Clerk  
7th District Court  
Smith County District Clerk  
100 North Broadway, Room 204  
Tyler, Texas 75702

*via E-Filing*

Re: Cause No. 20-1477-A; *WSLW Investments, LLC v. Maxum Indemnity Company*;  
Pending the 7th District Court, Smith County, Texas

Dear Clerk:

Please issue a Citation be served on the Commissioner of the Department of Insurance at the following address:

Commissioner of Insurance  
Texas Department of Insurance  
Chief Clerk Office  
PO Box 149104  
MC 112-2A  
Austin, Texas 78714-9104

By this filing, we are paying the \$8.00 fee associated with the preparation of the Citation. In addition, we are paying the \$80.00 fee associated with the service by certified mail.

Please do not hesitate to contact me if you have any questions.

Sincerely,

*/s/ Vincent P. Circelli*

Vincent P. Circelli  
[vcircelli@circelliwalterlaw.com](mailto:vcircelli@circelliwalterlaw.com)



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DISTRICT CLERK'S OFFICE



## CAUSE NO 20-1477-A

WSLW INVESTMENTS, LLC,

*Plaintiff,*

v.

MAXUM INDEMNITY COMPANY,

*Defendant.*§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

7TH JUDICIAL DISTRICT

SMITH COUNTY, TEXAS

---

**NOTICE OF APPEARANCE**

---

Vincent P. Circelli and Kelli L. Walter of Circelli & Walter, PLLC, give notice of their appearance as counsel for Plaintiff in this matter. Mr. Circelli's and Ms. Walter's contact information is as follows:

Vincent P. Circelli, Esq.  
State Bar No. 24058804  
vcircelli@circelliwalterlaw.com  
Kelli L. Walter, Esq.  
State Bar No. 24074576  
kwalter@circelliwalterlaw.com  
**CIRCELLI & WALTER, PLLC**  
Tindall Square Warehouse  
500 E. 4th Street, Suite 250  
Fort Worth, Texas 76102  
(817) 697-4942 telephone  
(817) 697-4944 facsimile

Pursuant to Rule 8 of the Texas Rules of Civil Procedure, Preston J. Dugas III shall be attorney-in-charge for Plaintiff in this matter and will remain as counsel of record for Plaintiff.



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AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE

Respectfully submitted,

/s/ Vincent P. Circelli

Vincent P. Circelli, Esq.  
State Bar No. 24058804  
vcircelli@circelliwalterlaw.com  
Kelli L. Walter, Esq.  
State Bar No. 24074576  
kwalter@circelliwalterlaw.com  
**CIRCELLI & WALTER, PLLC**  
Tindall Square Warehouse  
500 E. 4th Street, Suite 250  
Fort Worth, Texas 76102  
(817) 697-4942 telephone  
(817) 697-4944 facsimile

Preston J. Dugas III  
State Bar No. 24050189  
preston@pjdllawfirm.com  
**PRESTON DUGAS LAW FIRM, PLLC**  
1701 River Run, Suite 703  
Fort Worth, Texas 76107  
Telephone: (817) 945-3061  
Facsimile: (682) 219-0761

**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing was served upon counsel of record for Defendant via e-service on February 25, 2021.

/s/ Vincent P. Circelli

Vincent P. Circelli



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AND CORRECT COPY  
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DISTRICT CLERK'S OFFICE

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

or  
1. A

MAXUM INDEMNITY COMPANY  
SERVING ITS PRESIDENT& CEO,  
DOUG ELLIOT  
AT MAXUM INDEMNITY COMPANY.  
3655 NORTH POINT PARKWAY, SUITE 50  
ALPHARETTA, GA 30005



9590 9402 5277 9154 0616 87

2. Article Number (Transfer from service label)

PS F 11 7018 1830 0000 8757 8209

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

*MM Jones*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

*MM Jones*

C. Date of Delivery

*9/14*

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

*20-1477-A*

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☒ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



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USPS TRACKING #



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

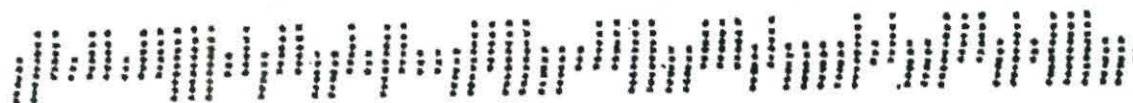
9590 9402 5277 9154 0616 87

United States  
Postal Service

FILED  
PENNY CLARKSTON  
DISTRICT CLERK  
2020 JUL 21 PM 1:22

• Sender: Please print your name, address, and ZIP+4® in this box•

**PENNY CLARKSTON**  
**DISTRICT CLERK, SMITH COUNTY**  
**100 N. BROADWAY, RM. 204**  
**TYLER, TEXAS 75702**



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DISTRICT CLERK'S OFFICE



CLERK OF THE COURT	ATTORNEY FOR PETITIONER
PENNY CLARKSTON SMITH COUNTY DISTRICT CLERK 100 N. BROADWAY, RM 204 TYLER, TEXAS 75702 903-590-1660	PRESTON J. DUGAS, III Preston Dugas Law Firm PLLC 309 w 7th Street Suite 1100 Fort Worth TX 76107 817-945-3061

CAUSE NO. 20-1477-A

**THE STATE OF TEXAS**  
**CITATION BY CERTIFIED MAIL**

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

**TO: MAXUM INDEMNITY COMPANY**  
**SERVING ITS PRESIDENT AND CEO, DOUG ELLIOT**  
**AT MAXUM INDEMNITY COMPANY,**  
**3655 NORTH POPINT PARKWAY, SUITE 50**  
**ALPHARETTA, GA 30005**

**GREETINGS:** You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten (10:00) o'clock A.M. on the Monday next after the expiration of the twenty (20) days after the date of service of this citation before the 7th Judicial District Court of Smith County, Texas at the Courthouse of said County located at 100 N. Broadway, Tyler, Texas.

Said **Plaintiff's Original Petition** was filed in said Court on JULY 6, 2020, in this case, numbered 20-1477-A on the docket of said Court, and styled:

**WSLW INVESTMENTS, LLC VS. MAXUM INDEMNITY COMPANY**

The nature of Plaintiff's demand is fully shown by a true and correct copy of Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly mail the same according to the requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of the Court at Tyler, Texas, on this date: July 06, 2020.

**CLERK OF THE COURT**  
**PENNY CLARKSTON, DISTRICT CLERK**  
**SMITH COUNTY, TEXAS**  
100 North Broadway, Rm. 204  
Tyler, Texas 75702

By: /s/ *Lana Fields*  
Lana Fields, Deputy



CERTIFIED TO BE A TRUE  
AND CORRECT COPY  
FILED IN THE SMITH COUNTY  
DISTRICT CLERK'S OFFICE

20-1477-A

\*\*\*\*\*CERTIFICATE OF DELIVERY BY MAIL\*\*\*\*\*

I hereby certify that on this date:7/6/2020, at 4 o'clock P.M., I mailed to MAXUM INDEMNITY COMPANY by registered or certified mail, with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the Petition attached thereto.

BY: /s/ Lana Fields

Lana Fields, Deputy

CERTIFIED MAIL, RETURN RECEIPT REQUESTED: 7018 1830 0000 8757 8209

>>>>>>>>ATTACH RETURN RECEIPT WITH ADDRESSEE'S SIGNATURE<<<<<<<<<



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# U.S. Postal Service<sup>TM</sup>

## CERTIFIED MAIL<sup>®</sup> RECEIPT

*Domestic Mail Only*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)<sup>®</sup>.

### OFFICIAL USE

Certified Mail Fee

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Extra Services & Fees (check box, add fee as appropriate)

- |   |    |       |
|---|----|-------|
| <input type="checkbox"/> Return Receipt (hardcopy)          | \$ | _____ |
| <input type="checkbox"/> Return Receipt (electronic)        | \$ | _____ |
| <input type="checkbox"/> Certified Mail Restricted Delivery | \$ | _____ |
| <input type="checkbox"/> Adult Signature Required           | \$ | _____ |

Pos

\$

Total

\$

Service

Street

City

MAXUM INDEMNITY COMPANY  
SERVING ITS PRESIDENT & CEO,  
DOUG ELLIOT

AT MAXUM INDEMNITY COMPANY  
3655 NORTH POINT PARKWAY, SUITE 50  
ALPHARETTA, GA 30005

Postmark  
Here



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## **Certified Mail service provides the following benefits:**

- A receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.

### **Important Reminders:**

You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.

Certified Mail service is *not* available for international mail.

Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.

For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:

- Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;

for an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt for no additional fee, present this USPS®-postmarked Certified Mail receipt to the retail associate.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
- Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
- Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).

- To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

**IMPORTANT: Save this receipt for your records.**



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20-1477-A

CAUSE NO. \_\_\_\_\_

WSLW INVESTMENTS, LLC.,  
Plaintiff,§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

vs.

\_\_\_\_\_ JUDICIAL DISTRICT COURT

MAXUM INDEMNITY COMPANY,  
Defendant.

SMITH COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

WSLW INVESTMENTS, LLC., Plaintiff herein, files this its Original Petition against Defendant, MAXUM INDEMNITY COMPANY, and, in support of its causes of action, would respectfully show the Court the following:

**I. PARTIES**

1. Plaintiff, WSLW INVESTMENTS, LLC., owns the property made the basis of this suit located at: 9150 FM 346 E, Whitehouse, Texas 75791 in Smith County, Texas (the "Property").
2. Defendant, MAXUM INDEMNITY COMPANY ("MAXUM" or "Defendant") is a foreign entity authorized to engage in the insurance business in the State of Texas and may be served by serving its President and CEO, **Doug Elliot, at Maxum Indemnity Company, 3655 North Point Parkway, Suite 50, Alpharetta, GA 30005**. Service is requested by certified mail, return receipt requested at this time.

**II. DISCOVERY**

3. Plaintiff intends to conduct discovery under a Level 3 discovery control plan pursuant to the Texas Rules of Civil Procedure.

**III. CLAIM FOR RELIEF**

4. At this time, Plaintiff cannot assess accurately a definite limit to the damages it has sustained, or will sustain in the future, as a result of Defendant's acts. Given the early state of this litigation, projections have not been declared regarding the full extent and severity of the injuries and damages. In view of these circumstances, Plaintiff does not wish to impose any limit on what



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it may present to the jury or what the jury may consider as a range of damages in this case; however, Plaintiff makes the following representation in compliance with Tex. R. Civ. P. 47(c) to aid in the efficient court administration. Plaintiff believes that the most reasonable option afforded under Tex. R. Civ. P. 47, at this time, prior to the completion of discovery in the case, is to seek monetary relief of \$100,000 or less and non-monetary relief, exclusive of interest and costs, which is the only option that does not require Plaintiff to select a speculative, arbitrary cap on its damages. Plaintiff reserves the right to modify or adjust this statement, as the litigation progresses, and additional evidence is compiled. Regardless of what Plaintiff must state for administrative purposes as the amount of damages it seeks pursuant to Tex. R. Civ. P. 47(c), it desires to leave the final determination of damages, if any, to the sole province of the jury, based upon the credible evidence presented to the jury at trial.

#### **IV. JURISDICTION AND VENUE**

5. This court has subject matter jurisdiction of this cause of action, because it involves an amount in controversy in excess of the minimum jurisdictional limits of this Court.

6. Venue is proper in Tyler County under Tex. Civ. Prac. & Rem. Code §15.002(a)(1) because all or a substantial part of the events or omissions giving rise to the claim occurred in said County. In particular, the loss at issue occurred in this County.

#### **V. FACTUAL BACKGROUND**

7. Plaintiff entered into an agreement with Defendant to pay Defendant premiums in exchange for insurance coverage protecting Plaintiff's Property.

8. The agreement was drafted by Defendant and assigned Policy Number BDG-3033762-01 (the "Policy"). The Policy's effective date was from November 2, 2018 to November 2, 2019 (referred to as the "Policy Period").

9. The Policy covers damage to property as a result of a wind, rain, and hail storm.

10. During the Policy Period, a wind, hail and rain storm hit Smith County, Texas damaging Plaintiff's Property.



11. Plaintiff subsequently filed a claim under the Policy.
12. Defendant assigned the claim, claim number BDG-3033762-01-01-01 (referred to as the "Claim").
13. Defendant failed to perform a proper inspection of the Property and as a result improperly denied the Claim.
14. Defendant and its adjusters assigned to the Claim prepared a report that failed to include all of the damages sustained by the Property and undervalued the damages observed during the inspection.
15. Defendant and its adjusters' unreasonable investigation led to the denial of Plaintiff's claim.
16. Moreover, Defendant and its adjusters performed an outcome-oriented investigation of Plaintiff's claim, which resulted in a biased, unfair and inequitable evaluation of Plaintiff's losses on the property.

## **VI. CAUSES OF ACTION**

### **A. Breach of Contract**

17. Plaintiff reasserts and realleges the allegations set forth in paragraphs 7 through 16 of this petition.
18. Defendant entered into the Policy with Plaintiff.
19. Plaintiff's Property sustained damage during the Policy Period as a result of hail and wind which is a covered cause of loss under the Policy.
20. Defendant breached the terms of the Policy by wrongfully denying the Claim.
21. As a result of Defendant's breach of the Policy, Plaintiff has sustained actual damages and has incurred reasonable and necessary attorney's fees to date.

### **B. Insurance Code Violations**

22. Plaintiff reasserts and realleges the allegations set forth in paragraphs 7 through 22 of this Petition.





Prompt Payment of Claims Statute

23. The failure of Defendant to pay for the losses and/or to follow the statutory time guidelines for accepting or denying coverage constitutes a violation of Article 542.051 et seq. of the Texas Insurance Code.

24. Plaintiff, therefore, in addition to Plaintiff's claim for damages is entitled to statutory interest and attorneys' fees as set forth in Article 542.060 of the Texas Insurance Code.

541 Insurance Code Violations

25. Defendant is required to comply with Chapter 541 of the Texas Insurance Code.

26. Defendant violated § 541.051 of the Texas Insurance Code by:

(1) making statements misrepresenting the terms and/or benefits of the policy.

27. Defendant violated § 541.060(a)(1) by misrepresenting to Plaintiff a material fact or policy provision relating to coverage at issue.

28. Defendant violated § 541.060(a)(2) by failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer's liability had become reasonably clear.

29. Defendant violated § 541.060(a)(3) by failing to promptly provide Plaintiff a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's denial of a claim or offer of a compromise settlement of a claim.

30. Defendant violated § 541.060(a)(4) by failing within a reasonable time to affirm or deny coverage of a claim to Plaintiff or submit a reservation of rights to Plaintiff.

31. Defendant violated § 541.060(a)(5) by refusing, failing, or unreasonably delaying a settlement offer under applicable first-party coverage on the basis that other coverage may be available or that third parties are responsible for the damages suffered.

32. Defendant violated § 541.060(a)(6) by undertaking to enforce Plaintiff to sign a full and final release of a claim when only a partial payment has been made.



33. Defendant violated § 541.060(a)(7) by refusing to pay Plaintiff's Claim without conducting a reasonable investigation with respect to the Claim.

34. Defendant violated § 541.061 by:

- (1) making an untrue statement of material fact;
- (2) failing to state a material fact necessary to make other statements made not misleading considering the circumstances under which the statements were made;
- (3) making a statement in a manner that would mislead a reasonably prudent person to a false conclusion of a material fact;
- (4) making a material misstatement of law; and
- (5) failing to disclose a matter required by law to be disclosed.

**C. DTPA Violations**

35. Plaintiff reasserts and realleges the allegations set forth in paragraphs 7 through 34 of this Petition.

36. At all material times hereto, Plaintiff was a consumer who purchased insurance products and services from Defendant.

37. Defendant is a "person" as defined by § 17.45 of the Texas Business and Commerce Code.

38. Defendant violated the Texas Deceptive Trade Practices Act in the following respects:

- (1) Defendant represented that the agreement confers or involves rights, remedies, or obligations which it does not have, or involve, or which are prohibited by law;
- (2) Defendant failed to disclose information concerning goods or services which was known at the time of the transaction when such failure to disclose such information was intended to induce the consumer into a transaction that the consumer would not have entered into had the information been disclosed; and
- (3) Defendant, by accepting insurance premiums but refusing without a reasonable basis to pay benefits due and owing, engaged in an unconscionable action or course of action as prohibited by the DTPA § 17.50(a)(1)(3) in that this Defendant took advantage of Plaintiff's lack of knowledge, ability, experience, and capacity to a grossly unfair degree, that also resulted in a gross disparity between the consideration paid in the transaction and the value received, in violation of Chapter 541 of the Insurance Code.

39. Upon information and belief, Defendant knowingly committed the acts complained of. As such, Plaintiff is entitled to exemplary and/or treble damages and reasonable attorney's fees pursuant to the DTPA and Texas Insurance Code § 541.152(a)-(b).

**D. Breach of The Duty of Good Faith and Fair Dealing**



40. Plaintiff reasserts and realleges the allegations set forth in paragraphs 7 through 39 of this Petition.

41. Plaintiff and Defendant entered into a valid and enforceable insurance policy.

42. Defendant owed Plaintiff the common law duty of good faith and fair dealing.

43. Defendant breached the common law duty of good faith and fair dealing by wrongfully denying and/or underpaying the Claim and delaying payment on the Claim when Defendant knew or should have known liability was reasonably clear.

44. Upon information and belief, Defendant's actions were performed without due regard or care for the Claim process and were done intentionally and/or with gross negligence.

45. As a result of Defendant's acts and/or omissions, Plaintiff sustained actual damages.

#### **VII. Attorneys' Fees**

46. Plaintiff reasserts and realleges the allegations set forth in paragraphs 7 through 45 of this petition.

47. Plaintiff engaged the undersigned attorneys to prosecute this lawsuit against Defendant and agreed to pay reasonable attorneys' fees and expenses through trial and any appeal.

48. Plaintiff is entitled to reasonable and necessary attorney's fees pursuant to TEX. CIV. PRAC. & REM. CODE §§ 38.001-38.003 because Plaintiff is represented by an attorney, presented the claim to Defendant, and Defendant did not tender the just amount owed before the expiration of the 30th day after the claim was presented.

49. Plaintiff further prays that it be awarded all reasonable attorneys' fees incurred in prosecuting its causes of action through trial and any appeal pursuant to Sections 541.152 and 542.060 of the Texas Insurance Code.

50. Plaintiff further prays that it be awarded all reasonable and necessary attorney's fees incurred in prosecuting Plaintiff's DTPA causes of action above pursuant to § 17.50(d).





### **VIII. CONDITIONS PRECEDENT**

51. All conditions precedent to Plaintiff's right to recover have been fully performed or have been waived by Defendant.

### **IX. DEMAND FOR JURY**

52. Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Plaintiff herein requests a jury trial and along with the filing of the Original Petition has tendered to the Clerk of the Court the statutory jury fee.

### **X. DISCOVERY REQUESTS**

53. Pursuant to Rule 194, you are requested to disclose, within fifty (50) days after service of this request, the information or material described in Rule 194.2(a)-(l).

### **XI. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff herein prays that, upon final hearing of the case, it recover actual damages, mental anguish and treble/exemplary damages from and against Defendant that may reasonably be established by a preponderance of the evidence, and that Plaintiff be awarded attorneys' fees through trial and appeal, costs of court, pre-judgment interest, post-judgment interest, and such other and further relief, general or special, at law or in equity, to which Plaintiff may show itself to be justly entitled.

Respectfully submitted,

**PRESTON DUGAS LAW FIRM, PLLC**

1701 River Run, Suite 703

Fort Worth, Texas 76107

Telephone: (817) 945-3061

Facsimile: (682) 219-0761

Email: preston@pjdllawfirm.com

/s/ Preston J. Dugas III

PRESTON J. DUGAS III

State Bar No. 24050189

CARIN "CJ" EVANS

State Bar No. 24032929

**ATTORNEYS FOR PLAINTIFF**

